

961459

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

**PERMIT\***



The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 1334-02-0003.1 FFW 020001		Application No. 1334-02-0003.1	
Issuance Date <b>DEC 16 2002</b>	Effective Date <b>DEC 16 2002</b>	Expiration Date <b>DEC 16 2007</b>	
Name and Address of Applicant NJ Dept. of Transportation 1035 Parkway Avenue Trenton, NJ 08625 Attn: Mahesh Patel, Project Manager		Name and Address of Owner	Name and Address of Operator
Location of Activity/Facility	Issuing Division  Land Use Regulation Program	Statute(s)  NJSA 13:9B-1 NJA 58:10-1 to 13	
Type of Permit: Freshwater Wetlands Individual Permit, State Open Water Fill Permit, Water Quality Certificate		Maximum Approved Capacity, if applicable	

This permit grants permission to: replace the existing Route 35 culvert along Hollow Brook with a 20' by 6" rigid frame open bottom culvert, perform approximately 530 linear feet of channel modification, disturb 0.11 acres of State Open Water and 0.21 acres of Freshwater Wetlands, as shown on the approved plans.

The plans hereby approved consist of 30 sheets, titled "State of New Jersey, Department of Transportation, Stream Encroachment and Freshwater Wetlands, Individual Permit Application Plans For Route 35, Section 5H, Hollow Brook Culvert Replacement, Township of Neptune, Monmouth County, February 2002, sheets 2 & 3 last revised June 3, 2002, sheets 5, 7, 12 thru 15, & 25 last revised June 11, 2002, prepared by Hatch Mott McDonald.

This project has been found consistent with established criteria for issuance of a Freshwater Wetlands Individual Permit, State Open Water Fill Permit and Water Quality Certificate as detailed in the attached Staff Summary Report.

This permit is issued subject to, and provided that, the listed conditions to follow and the conditions of Subchapter 13.1 of the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1.1 et seq.) can be met to the satisfaction of the Program.

Prepared by:

  
Tim Cochran

Revised Date

Approved by the Department of Environmental Protection

Name (Print or Type) SEE FINAL PAGE FOR SIGNATURE Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

\*The word permit means "approval, certification, registration, etc."

(General Conditions are on Page Two)

## GENERAL CONDITIONS

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.
2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.
3. The work, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.
4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.
5. The granting of this permit shall not be construed to in any way affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.
6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.
7. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.
8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.
9. This approval grants permission to the applicant and/or its agents to undertake an activity regulated by the State of New Jersey as described by the text of this permit and as detailed by the herein approved plans.
10. All activities authorized by this permit shall be completed within five years of the issuance date as shown on the first page of this document. At that time, this approval, if not previously revoked, shall automatically become null and void, and none of the activities referenced herein may commence or continue until the Department has granted a new approval.
11. The granting of this permit does not in any way relieve the applicant and/or its agents from the responsibility for damages caused by any construction or activities hereby approved, nor does the Department accept responsibility for any structural designs.

## PERMIT CONDITIONS

This permit is issued subject to and provided that the following conditions can be met to the satisfaction of the Land Use Regulation Program. All Administrative Conditions must be met prior to construction unless otherwise specified. All Physical Conditions are subject to on-site compliance inspection. Please notify the Bureau of Coastal and Land Use Enforcement, (1510 Hooper Avenue Toms River, New Jersey 08753), in writing at least 7 days prior to commencement of construction or site preparation.

1. No construction authorized by this permit may begin until the enclosed permit acceptance form has been signed by the applicant and is returned to the Land Use Regulation Program at P.O. Box 439, Trenton, New Jersey

08625. By signing and submitting this form, the applicant accepts this permit in its entirety and agrees to adhere to all of its terms and conditions. Please be advised that this permit may be declared null and void should it be determined that adequate measures have not been taken by the applicant and/or its agents to ensure the continuous implementation of these terms and conditions.

2. No construction authorized by this permit may begin until the permittee has obtained all other necessary approvals from the Freehold Soil Conservation District.

3. Within ten (10) days of the receipt of this permit by the applicant, this permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this permit is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

## MITIGATION CONDITIONS

1. Mitigate for the loss of 0.11 acres of State open waters and 0.21 acres of Freshwater Wetlands through an on-site creation described in the project narrative and depicted on the herein approved plans
  - a) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.
  - b) The permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of receipt of this permit
  - c) The permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the permittee, the contractor, the consultant and the Program.
  - d) The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection.
  - e) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. Mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.
  - f) Immediately following the final grading of the mitigation site and prior to planting, the permittee shall notify the Program for a post-grading construction meeting between the permittee, contractor, consultant and the Program.
  - g) Immediately following final grading and planting of the wetland mitigation project, the permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the permittee shall submit as built plans of the site and photos with a photo location map of the completed project.
  - h) The permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the permittee shall visibly mark/stake (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.

- i) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.
- j) The permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).
- k) Throughout the monitoring period, the permittee must eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site.
- l) All monitoring report will include all the following information (see attached monitoring report checklist):
  - i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);
  - ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent areal coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. If the permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent areal coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent areal coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;
  - iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species. If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.
  - iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

m) Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:

i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows 0.48 acres of emergent/scrub shrub wetlands have been created;

ii. The site has an 85 percent survival and 85 percent areal coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. The site is less than 10 percent occupied by invasive or noxious species;

iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

n) If the mitigation project is considered a failure, the permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure.

Approved By:



Mark Mauriello, Director  
Land Use Regulation Program

DATE: 12/16/02